

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PLAINTIFF'S COMPLAINT

Plaintiff, ROBERT MCELROY (“Plaintiff”), through his attorney, Korth Law Office, alleges the following against Defendant, KREAM AND KREAM (“Defendant”):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1367, and 15 U.S.C. §1692k.
3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

5. Plaintiff is a natural person residing in Mills, Norfolk County, Massachusetts.

6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3).
7. Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6).
9. Defendant attempted to collect a consumer debt from Plaintiff.
10. Defendant is a debt collection agency with offices in East Weymouth, Norfolk County, Massachusetts.
11. Defendant's business includes, but is not limited to, collecting on unpaid, outstanding account balances.
12. When an unpaid, outstanding account is placed with Defendant it is assigned a file number.
13. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

14. Defendant is attempting to collect an alleged debt from Plaintiff on behalf of the original creditor, Velocity Investments, LLC, account number ending in 3203 ("Account").
15. Plaintiff's alleged debt owed to Velocity arises from transactions for personal, family, and household purposes.
16. Plaintiff retained the services of Debt Counsel for Seniors and the Disabled ("DCSD") to help with Plaintiff's unsecured debts.
17. DCSD protects seniors, veterans, and the disabled to ensure creditors and collectors do not violate collection laws or garnish federally protected incomes, such as Social Security, Social Security Disability, Veterans benefits, and other federal funds.
18. On October 9, 2014, Defendant mailed a collection letter to Plaintiff regarding the Account.

See Defendant's letter attached as Exhibit A.

19. On October 20, 2014, DCSD faxed a notice of representation and cease and desist letter to Defendant at 781-331-9549. *See* the letter attached as Exhibit B.
20. DCSD's letter was provided to Defendant with Plaintiff's name, last four digits of the account number, and a cease and desist request from both DCSD and Plaintiff. *Id.*
21. On October 20, 2014, after DCSD's letter was faxed to Defendant, a Transmission Verification Report was generated.
22. According to the Transmission Verification Report, Defendant received DCSD's notice of representation and cease and desist letter on October 20, 2014.
23. Despite having received Plaintiff's cease and desist request and letter informing Defendant of DCSD's representation, on February 26, 2015, Defendant mailed a collection letter to Plaintiff regarding the Velocity Account. *See* the letter attached as Exhibit C.
24. Despite Plaintiff's requests that Defendant cease contacting him directly in connection with the alleged Velocity account, Defendant continued to send letters to Plaintiff, seeking and demanding payment on the alleged debt at issue in this case.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

25. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, ROBERT MCELROY, respectfully requests judgment be entered against Defendant, KREAM AND KREAM for the following:

26. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.
27. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.
28. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

DATED: September 11, 2015

By: /s/ Sebastian Korth BBO #676127
Sebastian Korth
Korth Law Office
One Center Plaza, Suite 220
Boston, MA 02108
Tele: (617) 259-1955
Fax: (617)238-2167
skorth@korthlawoffice.com
Attorney for Plaintiff

EXHIBIT A

KREAM AND KREAM

Attorneys at Law
P.O. Box 890117
East Weymouth, MA 02189

RICHARD H. KREAM
R. MARK SEITSINGER
RICHARD J. OMAR

MAXWELL KREAM
1911-1993
(781) 331-9333 fax (781) 331-9549

PAYMENTS CAN BE MADE ONLINE AT WWW.KREAMANDKREAM.COM

October 9, 2014

100X3203

ROBERT J MCELROY
2 Baltimore St
Millis MA 02054

#12613

RE: VELOCITY INVESTMENT LLC

FILE #: 100X3203
ACCOUNT #: 4309010156004
BALANCE: \$4,937.87

DEAR ROBERT J MCELROY:

The above claim has been turned over to this office for collection. All payments and correspondence relative to this matter should be forwarded to this office at the address listed above. I suggest that you contact this office so this matter can be resolved.

This is an attempt to collect a debt and any information obtained will be used for that purpose. If you do not dispute the validity of this debt, or any portion thereof, within thirty days after receiving this letter, we will assume it is valid. If you do dispute the validity of this debt, or any portion thereof, in writing, within the thirty-day period, we will obtain verification of the debt or a copy of a judgment and will mail a copy of such verification or judgment to you. At your request in writing within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor.

Very truly yours,

Richard H. Kream
Kream and Kream

THIS IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

KK/L1

EXHIBIT B



October 20, 2014

BY FAX ONLY: 781-331-9549
Page 1 of 2

Kream and Kream
PO Box 890117
East Weymouth, MA 02189

Re: **Robert McElroy**
Alleged creditor: **Velocity Investments, LLC**
Your file or reference No.: **100X3203**
Our file No.: **12613**

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for purposes of enforcing their rights pursuant to all applicable federal debt collection laws. Debt Counsel for Seniors and the Disabled exclusively represents clients who are seniors, veterans and/or disabled individuals whose income (e.g. social security, disability, veterans' benefits, etc.) is protected by federal law.

My client hereby disputes the entire amount of the debt referenced above. Accordingly, please provide any agreement(s) my client may have signed regarding this debt as well as an accounting history, balance calculation and charge-off date, if applicable, to this law firm at the above address. Also, please report this debt as disputed to all Credit Reporting Agencies to which you reported this debt..

Notwithstanding my representation, be on notice that my client hereby directs you to cease and desist all further communications with my client and hereby expressly revokes any prior consent that may have been given to call any telephone. My client also hereby revokes any prior business relationship with you or with any other party(s) involved in this matter, which includes revocation of any agreement to arbitrate any matter that my client may have entered into with your or any predecessor in interest.

Per the official Staff Commentary on Regulation Z 226.2(a)(22), please direct all further communication regarding this matter to my office, Debt Counsel for Seniors and the Disabled, 542 S. Dearborn Street, Suite 1260, Chicago, IL 60605, 800-992-3275.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jerome S. Lamet'.

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Robert McElroy

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 356-3199

TRANSMISSION VERIFICATION REPORT

TIME : 10/20/2014 15:50
NAME : JEROME LAMET LTD
FAX : 13123563199
TEL : 13129392221
SER. # : BROD8J797996

DATE, TIME	10/20 15:49
FAX NO./NAME	17813319549
DURATION	00:00:51
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



October 20, 2014

BY FAX ONLY: 781-331-9549
Page 1 of 2

Kream and Kream
PO Box 890117
East Weymouth, MA 02189

Re: **Robert McElroy**
Alleged creditor: **Velocity Investments, LLC**
Your file or reference No.: **100X3203**
Our file No.: **12613**

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Notwithstanding my representation, be on notice that my client hereby directs you to cease and desist all further communications with my client and hereby expressly revokes any prior consent that may have been given to call any telephone. My client also hereby

EXHIBIT C

#12613

KREAM AND KREAM

Attorneys at Law

P.O. Box 890117

East Weymouth, MA 02189

RICHARD H. KREAM
R. MARK SEITSINGER
RICHARD J. OMAR

MAXWELL KREAM

1911-1993

(781) 331-9333 fax (781) 331-9549

Business Hours: Monday - Friday, 9:00am - 5:00 pm

PAYMENTS CAN BE MADE ONLINE AT WWW.KREAMANDKREAM.COM

February 26, 2015

100X3203

Fax# 781-331-9549
Richard Kream.

ROBERT J MCELROY
2 BALTIMORE STREET
MILLIS MA 02054

Re: **VELOCITY INVESTMENT LLC VS. ROBERT J MCELROY**

File #: 100X3203

Balance: \$4,937.87

Dear Sir/Madame:

This tax season my client would like to extend an offer to settle the above described claim for **\$3,209.62**, representing 65% of the total amount due.

This offer is made without prejudice to my client, and if the settlement balance is not tendered by **April 15, 2015**, my client shall be entitled to the full amount owed.

Payment should be made payable to Kream and Kream and delivered to this office at the above address. To ensure your payment is processed accordingly, please clearly note your file number, **100X3203**, as well as a note that the payment represents "Settlement in Full" on the payment instrument.

If you are making payments on this account and do not wish to settle, please disregard this letter and continue to make payments. Please contact this office if you wish to discuss this matter.

Very truly yours,

Richard H. Kream
Kream and Kream

THIS IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.